



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
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Washington, D.C. 20231

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 13

Application Number: 08/951,276

Filing Date: 10/16/97

Appellant(s): David McCarthy

Mark Stone

For Appellant

EXAMINER'S ANSWER

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This is in response to appellant's brief on appeal filed January 19,2000.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct; the rejections under 35 USC 102 and 103 are withdrawn.

(7) *Grouping of Claims*

The rejection of claims 1-20 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

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(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 112. This rejection is set forth in prior Office action, Paper No. 8 as “Lack of written description”.

(10) *Response to Arguments*

In response to appellants arguments on page 8, lines 11-29 that the “...each of the structural elements to which the Examiner has objected is an element which will clearly be understood by a person having ordinary skill in the relevant art...”, and that these elements are “basic terms”. This argument is directed toward a lack of enablement rejection which has not been made.

The Examiner replies: the appellant has not addressed the actual cause for the USC 112 rejection which is for a “lack of written description” of terms/elements such as “biasing means” and “means for coupling”, as set forth in prior Office action, Paper No. 8.

Appellant has not pointed out whether a written description of these claims recitations are found in the disclosure.

For the above reasons, it is believed that the USC 112 rejections should be sustained.

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However, applicant's arguments in response to the USC 102 and 103 rejections are persuasive and, therefore, the USC 102 and 103 claim rejections are withdrawn.

Respectfully submitted,



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Brigitte R. Hammond
April 7, 2000

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